

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

REUBEN AVENT, 01-A-5796,

Plaintiff,

02-CV-0828S(Sr)

v.

HERBERT, et al.,

---

Defendants.

**DECISION AND ORDER**

This case was referred to the undersigned by the Hon. William M. Skretny, pursuant to 28 U.S.C. § 636(b)(1), for all pretrial matters and to hear and report upon dispositive motions. Dkt. #66.

Presently pending before this Court is plaintiff, Reuben Avent's motion for an Order compelling discovery and for sanctions. Dkt. #46. On September 17, 2010, this Court issued its Report, Recommendation and Order on defendants' motion for summary judgment (Dkt. #53) wherein it recommended that defendants' motion for summary judgment be granted in its entirety. By reason of this Court's recommendation that defendants' motion for summary judgment be granted, the instant motion to compel discovery and sanctions is hereby denied as moot.

**SO ORDERED.**

DATED: Buffalo, New York  
September 17, 2010

s/ H. Kenneth Schroeder, Jr.  
**H. KENNETH SCHROEDER, JR.**  
**United States Magistrate Judge**